



ELECTION NEWS

A special informational bulletin
on the conduct of the
November 4, 2008 general
election

Michigan Department of State - Terri Lynn Land, Secretary of State

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With the November 4 general election rapidly approaching, this edition of *Election News* offers a number of reminders and points of information regarding the administration of the general election. The following topics are covered:

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- Handling Federal Write-In Absentee Ballots (FWAB's)
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<h3>Planning Ahead for EAC Post-Election Data Survey</h3>

An election data survey will be mailed to all city and township clerks throughout the state after the November 4, 2008 general election. The data requested on the surveys is required by the U.S. Election Assistance Commission (EAC) in Washington, D.C. The Department of State's obligation to respond to the EAC's informational requests is mandated under federal law.

The survey that will be distributed to Michigan's city and township clerks will only ask for those data elements that must be collected on the local level. The survey distributed by the Bureau will not ask for needed information that is available through the QVF or other state level resources. A significant portion of the EAC's informational requests can generally be satisfied with information already available on the state level.

In preparation for the survey, the data items listed below must be collected by all city and township clerks. Given the need for the data, all city and township clerks must compile the required information on an ongoing basis to eliminate the need to reconstruct the information after the election:

I. Military Voters (Both Within the United States and Outside of the United States)

- A. Number of absentee ballots issued to military voters.
 - 1. Number of ballots issued to military voters due to “automatic” requests on file in your office (i.e., ballot requests submitted between November 3, 2004 and November 7, 2006).
- B. Number of absentee ballots issued to military voters that were returned by the voter by 8:00 p.m. on November 4, 2008.
 - 1. Number of ballots issued to military voters returned by 8:00 p.m. on November 4, 2008 that were issued due to “automatic” ballot requests on file in your office (i.e., ballot requests submitted between November 3, 2004 and November 7, 2006).
- C. Number of absentee ballots issued to military voters that were returned by the post office as “undeliverable.”
 - 1. Number of ballots issued to military voters and returned by the post office as “undeliverable” that were issued due to “automatic” ballot requests on file in your office (i.e., ballot requests submitted between November 3, 2004 and November 7, 2006).
- D. Number of absentee ballots issued to military voters that were returned by the voter after 8:00 p.m. on November 4, 2008.
- E. Number of absentee ballots issued to military voters that were returned by the voter by 8:00 p.m. on November 4, 2008 that were rejected because the voter did not sign the return envelope.

II. Overseas Civilian Voters (Non-Military Voters Outside of the United States)

- A. Number of absentee ballots issued to civilian voters outside of the United States.
 - 1. Number of ballots issued to civilian voters outside of the United States due to “automatic” requests on file in your office (i.e., ballot requests submitted between November 3, 2004 and November 7, 2006).
- B. Number of absentee ballots issued to civilian voters outside of the United States that were returned by the voter by 8:00 p.m. on November 4, 2008.
 - 1. Number of ballots issued to civilian voters outside of the United States returned by 8:00 p.m. on November 4, 2008 that were issued due to “automatic” ballot requests on file in your office (i.e., ballot requests submitted between November 3, 2004 and November 7, 2006).
- C. Number of absentee ballots issued to civilian voters outside of the United States that were returned by the post office as “undeliverable.”
 - 1. Number of ballots issued to civilian voters outside of the United States and returned by the post office as “undeliverable” that were issued due to “automatic” ballot requests on

file in your office (i.e., ballot requests submitted between November 3, 2004 and November 7, 2006).

- D. Number of absentee ballots issued to civilian voters outside of the United States that were returned by the voter after 8:00 p.m. on November 4, 2008.
- E. Number of absentee ballots issued to civilian voters outside of the United States that were returned by the voter by 8:00 p.m. on November 4, 2008 that were rejected because the voter did not sign the return envelope.

III. Federal Write-In Absentee Ballots (FWABs) Submitted by Military Voters Outside of the United States

- A. Number of FWABs received from military voters outside of the United States prior to 8:00 p.m. on November 4, 2008.
 - 1. Number of FWABs received from military voters outside of the United States prior to 8:00 p.m. on November 4, 2008 that were counted.
 - 2. Number of FWABs received from military voters outside of the United States prior to 8:00 p.m. on November 4, 2008 that were not counted and the specific reasons why the ballots were not counted.
- B. Number of FWABs received from military voters outside of the United States after 8:00 p.m. on November 4, 2008.

IV. Federal Write-In Absentee Ballots (FWABs) Submitted by Civilian Voters Outside of the United States

- A. Number of FWABs received from civilian voters outside of the United States prior to 8:00 p.m. on November 4, 2008.
 - 1. Number of FWABs received from civilian voters outside of the United States prior to 8:00 p.m. on November 4, 2008 that were counted.
 - 2. Number of FWABs received from civilian voters outside of the United States prior to 8:00 p.m. on November 4, 2008 that were not counted and the specific reasons why the ballots were not counted.
- B. Number of FWABs received from civilian voters outside of the United States after 8:00 p.m. on November 4, 2008.

V. Absentee Ballots Issued to Non-Military Voters in Your City or Township or Elsewhere Within the United States

- A. Number of absentee ballots issued to non-military voters in your city or township or elsewhere within the United States.
- B. Number of absentee ballots issued to non-military voters in your city or township or elsewhere in the United States that were returned by the voter by 8:00 p.m. on November 4, 2008.

- C. Number of absentee ballots issued to non-military voters in your city or township or elsewhere in the United States that were returned by the post office as “undeliverable.”
- D. Number of absentee ballots issued to non-military voters in your city or township or elsewhere in the United States that were returned by the voter after 8:00 p.m. on November 4, 2008.
- E. Number of absentee ballots received from non-military voters in your city or township or elsewhere in the United States prior to 8:00 p.m. on November 4, 2008 that were not counted and the specific reasons why the ballots were not counted.

VI. Election Inspectors

- A. Number of election inspectors hired to work in the polls and serve on absentee counting boards at the November 4, 2008 general election that fall in each of the following age brackets:

16 to 17 years old
 18 to 25 years old
 26 to 40 years old
 41 to 60 years old
 61 to 70 years old
 71 years old and over

<h3>Michigan’s Absentee Voting Process: Critical Points to Remember</h3>

To protect and enhance the integrity of Michigan’s absentee voting process, all election officials are required to observe the legal requirements, practices and policies detailed below:

Eligibility: A registered voter is eligible to obtain an absentee ballot for an upcoming election if he or she: 1) is 60 years of age or more 2) is unable to vote without assistance 3) expects to be absent from his or her city or township of residence for the entire time the polls are open 4) is in jail awaiting arraignment or trial 5) has been appointed to work as an election inspector in a precinct outside of his or her precinct of residence or 6) is unable to attend the polls due to his or her religious beliefs.

Eligibility restriction: A person who registers to vote by mail must vote in person in the first election in which he or she participates. The restriction does not apply to overseas voters, voters who are handicapped or voters who are 60 years of age or older.

Application process: A voter who wishes to receive an absentee ballot must request it in writing from the clerk; absentee ballots may not be delivered as a result of an oral request made in person or over the phone. However, an absentee ballot application form may be provided as a result of an oral request.

The written request may be on a form supplied by the clerk or other election official, in a letter or on a postcard. The written request may also be on a form produced and distributed by a candidate or political organization. The written request must include a statutory reason why the voter is eligible to receive an absentee ballot and the applicant’s signature.

Mass mailing absentee ballot application forms to voters: Michigan election law does not permit a city or township clerk to mail absentee ballot applications without having received a verbal or written request. However, a city or township clerk may mass mail absentee ballot applications to voters who have asked to receive an application for every election.

County clerks have no authority to distribute absentee ballot applications unless the county clerk is acting in the role of school election coordinator. The same standards detailed above for the mass mailing of absentee ballot applications apply to county clerks as they perform their school election coordinator role.

Submission of absentee ballot applications: Voters who wish to have their absentee ballot delivered by mail must submit their application for the ballot no later than 2:00 p.m. on the Saturday prior to the election.

Absentee ballot applications may be submitted in person or by mail. Absentee ballot applications may also be submitted by fax or can be scanned and transmitted via email. Faxed and emailed absentee ballot requests must show the voter's signature; faxed and emailed absentee ballot requests that do not show the applicant's signature are not acceptable.

On Monday, November 3, a voter may request and vote an absentee ballot in person in the clerk's office. The voter must vote the ballot in the clerk's office; the voter is not permitted to leave the clerk's office with the ballot.

It is important to note that a voter who applies for an absentee ballot for a primary may use a "dual" absentee ballot application form to request an absentee ballot for the following general election if he or she is eligible to receive an absentee ballot for both elections. Consequently, city and township clerks must check the absentee ballot applications which were received prior to the primary to determine if any of the applications include absentee ballot requests for the general election.

The law also provides for the issuance of "emergency" absentee ballots in certain limited situations. The emergency absentee voting process is explained below.

Office hours on Saturday preceding election: The clerk or other authorized personnel appointed by the clerk must be available in the clerk's office on the Saturday preceding the election until 2:00 p.m. - the deadline for requesting an absentee ballot which must be mailed.

Restrictions on possession of signed absentee ballot applications: The persons who may be in lawful possession of a signed absentee ballot application are limited to 1) the voter 2) a member of the voter's immediate family 3) a person residing in the voter's household 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) 5) a registered elector asked to handle the application by the voter and 6) an authorized election official.

A registered elector who returns an absentee ballot application at the request of the applicant must sign the following certificate which appears on the application form:

**CERTIFICATE OF AUTHORIZED REGISTERED ELECTOR
RETURNING ABSENTEE BALLOT APPLICATION**

I certify that my name is _____,
my address is _____,
and my date of birth is _____; that I am delivering the absentee
ballot application of _____
at his or her request; that I did not solicit or request to return the application; that I have not made any
markings on the application; that I have not altered the application in any way; that I have not
influenced the applicant; and that I am aware that a false statement in this certificate is a violation of
Michigan election law.

Date

Signature

Application verification requirement: Upon the receipt of a completed absentee ballot application, the signature appearing on the application must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

Issuance of absentee ballots: A request for an absentee ballot must be processed immediately. It is recommended that the ballot be issued within 24 hours of the receipt of the application. Applications should be processed in the order they are received. This will avoid criticism that certain voters are being given preferential treatment. (While absentee ballots must be issued in the same order in which they are requested, an election official is not prohibited from issuing an absentee ballot to a voter applying in person despite the fact that there may be applications on file which have not yet been honored.)

A voter can receive an absentee ballot at his or her registration address, at any address outside of his or her jurisdiction of residence or at a hospital, nursing home or similar institution. Also, a clerk may mail an absentee ballot, upon the request of the voter, to a post office box if the post office box is where the voter normally receives mail and the voter does not receive mail at his or her registration address. A voter **cannot** receive an absentee ballot at any residential address within his or her city or township of registration other than his or her registration address.

Campaign brochures or any other type of unauthorized materials may not be distributed with absentee ballots.

In every case, an absentee ballot must be transmitted to the applicant by mail if there is an adequate amount of time for the voter to receive the ballot by mail, vote the ballot and return the ballot prior to 8:00 p.m. on the date of the election. **To avoid any appearance of impropriety, absentee ballots should not be delivered by hand unless it is necessary to ensure the timely return of the ballot.**

Absentee voters who receive assistance: If the absentee voter receives assistance from another person when voting the ballot, the individual who provided the assistance must sign the certificate shown below. The certificate appears on the outside of the ballot return envelope.

The certificate must be signed by any person who assists an absentee voter mark his or her ballot including the voter's spouse, a household member who lives with the voter, an election official or an individual employed as an election assistant.

**TO BE COMPLETED ONLY IF VOTER IS
ASSISTED IN VOTING BY ANOTHER PERSON**

I assisted the above named absentee who is disabled or otherwise unable to mark the ballot in accordance with his or her directions. The absentee ballot was inserted in the return envelope without being exhibited to any other person.

Signature of Person Assisting Voter

Printed Name of Person Assisting Voter

Street Address or R.R.

City or Township

Return of absentee ballots: Absentee ballots must be returned to the clerk by 8:00 p.m. on election day. On the day of the election, the clerk must make arrangements with the post office to pick up any absentee ballots which are received by the post office after the post office has made its final mail delivery of the day to the clerk's office. (The time of the final check should be coordinated with the post office to ensure that the check is made after the post office receives its last mail delivery of the day.)

The persons who may return an absentee ballot are limited to 1) the voter 2) a member of the voter's immediate family who has been asked to return the ballot 3) a person residing in the voter's household who has been asked to return the ballot 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) and 5) an authorized election official.

Given the above restrictions, it is important to note that an absentee voter is not permitted to ask another voter who is not a member of the voter's immediate family or household to return his or her absentee ballot.

Ballot pick-up by election official: An election official is required to pick up a voter's absentee ballot if all of the following conditions are satisfied: 1) the election official issued the ballot to the voter 2) the voter is unable to return the ballot under any of the authorized delivery methods 3) the voter calls to request the pick up of his or her ballot before 5:00 p.m. on the Friday immediately preceding the election and 4) it is not necessary for the election official to travel outside of the jurisdiction to obtain the ballot. Under any other circumstances, an election official (or authorized assistant) may pick up a voter's absentee ballot at the election official's discretion if 1) the election official issued the ballot to the voter and 2) the voter is unable to return the ballot under any of the authorized delivery methods.

Election assistants authorized to pick up absentee ballots must carry appropriate credentials and show them when asked.

An election official should not pick up a voter's absentee ballot unless the voter requests the pick up.

In no case should an election official or a person working as an election assistant contact an absentee voter in person or by phone to offer to return the voter's ballot.

Ballot verification requirement: A voter who has obtained an absentee ballot must sign the following certificate which appears on the return envelope prior to returning the ballot to the clerk:

TO BE COMPLETED BY THE ABSENTEE

I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absentee in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person. I further assert that this absentee ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

Date

Signature of Absentee

Upon the receipt of a returned absentee ballot, the signature appearing on the above certificate must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

If the voter fails to sign the certificate, the ballot is void and cannot be removed from the envelope or counted.

Deceased absentee voter: If it comes to the attention of a local election official or a precinct board that a voter who returned an absentee ballot has died, the ballot must be rejected. In such an instance, the election official or precinct board writes "rejected as illegal" on the return envelope. Absentee ballots which are "rejected as illegal" cannot be removed from their return envelopes.

Emergency absentee ballot requests: An elector may make an "emergency" request for an absentee ballot if he or she cannot attend the polls because 1) the elector has become disabled or 2) the elector must leave the community for the entire time the polls are open on election day due to a family death or illness.

"Emergency" requests for absentee ballots must be made after the deadline for making "regular" requests for absentee ballots (2:00 p.m. on the Saturday before the election) and before 4:00 p.m. on election day. The emergency must have occurred at a time which made it impossible for the voter to apply for an absentee ballot by the statutory deadline for "regular" applications.

If an "emergency" absentee ballot is requested, the person making the application may authorize the person delivering the application to pick up and deliver the ballot. The authorization to pick up and deliver the ballot must be in writing and must be signed by the applicant. An "emergency" absentee ballot may also be delivered by hand to the applicant by a person authorized to handle this task.

Penalties: Michigan election law provides the following penalties related to Michigan's absentee voting process:

- A person who forges a signature on an absentee ballot application is guilty of a felony. (MCL 168.759(8))
- An unauthorized person who both distributes absentee ballot applications to voters and returns those absentee ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor. (MCL 168.759(8))
- A person who is not involved in the counting of ballots as provided by law who has possession of an absentee ballot which was mailed or delivered to another person is guilty of a felony if he or she 1) opens the envelope containing the ballot 2) makes any marks on the ballot 3) alters the ballot in any way or 4) substitutes another ballot for the absentee ballot in his or her possession. (MCL 168.932(e))
- A person, other than an authorized election official, who gives, lends or promises any valuable consideration to or for a person to induce that person to both distribute absentee ballot applications and receive signed absentee ballot applications from voters for delivery to the clerk is guilty of a misdemeanor. (MCL 168.931(1)(b))
- A person who participates in a meeting or a portion of a meeting of more than two persons, other than the person's immediate family, at which an absentee ballot is voted is guilty of misdemeanor. (MCL 168.931(1)(m))
- A person who is present while a voter is voting an absentee ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony. (MCL 168.932(h))
- A person who assists an absentee voter mark his or her ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony. (MCL 168.932(g))
- A person who assists an absentee voter mark his or her ballot who permits any other person to suggest how the voter should vote or permits any other person to attempt to influence the voter on how he or she should vote is guilty of a felony. (MCL 168.932(g))
- A person in illegal possession of an absentee ballot (voted or unvoted) is guilty of a felony. (MCL 168.932(f))
- An unauthorized person who returns, solicits to return or agrees to return an absentee ballot is guilty of a felony. (MCL 168.932(f))
- A person who assists an absentee voter who falsifies the statement which must be signed by such assistants is guilty of a felony. (MCL 168.761(5))
- A person who plans or organizes a meeting at which absentee ballots are to be voted is guilty of a felony. (MCL 168.932(i))

- An absentee voter who knowingly makes a false statement on the absentee ballot return envelope is guilty of a misdemeanor. (MCL 168.761(5))

Handling Federal Write-In Absentee Ballots (FWAB's)

The Federal Write-In Absentee Ballot (FWAB) is a special write-in ballot which can be used to vote for federal offices only. The form is provided and distributed by the federal government. The following persons are eligible to use an FWAB:

- 1) Members of the “uniformed services” and their spouses and dependents. (Voter can be within the United States or outside of the United States.)
- 2) U.S. citizens living or traveling outside of the territorial limits of the United States. (Voter must be outside of the United States.)

Standards for determining validity of FWAB's: An FWAB must be counted if:

- 1) the FWAB was signed by the voter;
 - 2) the FWAB was submitted by a voter eligible to use the form;
 - 3) the voter submitted a written request for an absentee ballot on or before November 1, 2008; and
 - 4) the absentee ballot issued to the voter by the voter's city or township clerk does not arrive back in the clerk's office in time to be counted.
- “Uniformed services” includes the U.S. Armed Forces (Army, Navy, Air Force, Marine Corps and Coast Guard); Merchant Marine; the commissioned corps of the Public Health Service; and the commissioned corps of the National Oceanic and Atmospheric Administration.
 - It is important to note that an FWAB is not valid unless the voter submits a written request for an absentee ballot on or before November 1, 2008. An absentee ballot application received by the Bureau of Elections or a county clerk's office on or before November 1, 2008 satisfies the application deadline used to judge the validity of federal write-in ballots.
 - If a voter who requests an absentee ballot returns both the ballot issued by his or her local clerk and an FWAB before 8:00 p.m. on Tuesday, November 4, the ballot issued by the clerk is accepted and the FWAB is rejected. On the other hand, if both ballots are returned -- and one of the ballots arrives before 8:00 p.m. on Tuesday, November 4, and the other ballot arrives after 8:00 p.m. on Tuesday, November 4 – the ballot that was submitted on time is accepted regardless of whether it is the FWAB or the ballot issued by the clerk and the ballot that arrived late is rejected.

Reminders: Several pertinent reminders regarding the use and processing of FWAB's are provided below:

- For the November 4 general election, the FWAB can be used to vote for the federal offices on the ballot (U.S. President, U.S. Senator and U.S. Representative); it cannot be used to vote for any other offices or on proposals.

- A voter using an FWAB can cast a vote for a candidate seeking a federal office at the election by writing in the candidate's name or political party. If the voter writes in the name of a political party, a vote is counted for the candidate seeking the office under the indicated party's vignette.
- A voter is not required to mark a cross or a checkmark on the FWAB.
- Federal law provides that any abbreviation, misspelling or other minor variation in the form of a candidate's name or the name of a political party is to be disregarded in determining the validity of the vote cast if the voter's intention can be determined.

Recall Petition "Cutoff" Dates for 2009 Elections

Michigan election law provides that a recall election must be conducted on the 'next regular election date that is not less than 95 days after the petition is filed.'

In view of the above requirement, the following chart lists the last date a recall petition can be filed for the regular election dates scheduled in 2009:

Election date	Last date recall petition can be filed in order for recall question to appear on ballot
February 24, 2009	November 21, 2008
May 5, 2009	January 30, 2009
August 4, 2009	May 1, 2009
November 3, 2009	July 31, 2009

Election Resources Available on Department's Website

A wide variety of election related information and materials can be accessed through the Department's website www.michigan.gov/sos. To locate, click on "Elections in Michigan"; on the Elections in Michigan page, click on "Information for Election Administrators." The information and materials currently available on the website include the following:

- Michigan election law.

- November 4, 2008 Voter Information Poster (English and Spanish).
- November 4 election date calendar.
- Provisional balloting implementation materials.
- Election inspector training materials.
- Michigan voter identification requirement implementation materials.
- AutoMARK implementation materials.
- Archives of previous issues of *Election News* and *News You Can Use*.

Have a Question or Need Assistance?
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If you have a question or need assistance with your election related duties, please do not hesitate to contact the Michigan Department of State's Bureau of Elections. We will be happy to assist in any way possible!

Mailing address: Michigan Department of State
Bureau of Elections
PO Box 20126
Lansing, MI 48901-0726

Phone: (517) 373-2540

Email: elections@michigan.gov

Fax: (517) 373-0941